M.J. Pharmaceuticals Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/39037

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-11-2005

Judge : S T S.S., T Anjaneyulu

Appellant : M.J. Pharmaceuticals

Respondent : Cce

Judgement :

1. After hearing both sides and considering that the issue in this case is interpretation of rule 6 and consequent recovery of 8% as prescribed under that rule when common inputs are used in or for manufacture of dutiable and duty exempt products covered by a notification not relating to exemption to availability of credit has since been settled by the Bangalore Bench of this Tribunal vide its order in the case of appeal no. E/948/2003 in the case of Andhra Pradesh Paper Mills Ltd. [2004-TIOL-1056-CESTAT-BANG] in favour of no such reversals called.

Relying upon this decision especially para 3 thereof and for those very reasons this appeal is to be allowed.

2. The case of Albert David Ltd. v. CCE, 2003 (151) ELT 443 (Tri-Del) where the Civil Appeal filed by assessee stands dismissed by the Apex Court, 2003 (157) ELT A81, relied upon by the D.R will not held the Revenue's case, since that decision was as regards the treatment of credit availed on inputs lying in stock when the final product was exempted from duty. The issues in this case are not same.

3. Following Andhra Pradesh Paper Mills Ltd. [2004-TIOL-1056-CESTAT-BANG] especially para 3 thereof we would set aside the order and allow this appeal.